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9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 EUREKA DIVISION

12  
13 UNITED STATES OF AMERICA, ) NO. 15-MJ-70564 NJV  
14 Plaintiff, )  
15 v. )  
16 ABEL ANTONIO ALARCON, )  
17 Defendant. )  
18

19 On May 6, 2015, Abel Antonio Alarcon was charged in a criminal complaint with possession of  
20 methamphetamine and cocaine with intent to distribute, in violation of 21 U.S.C. §§ 841(a)(1) and  
21 (b)(1)(C). Because these charges carry a maximum term of imprisonment of more than ten years, the  
22 government was entitled to a detention hearing pursuant to 18 U.S.C. § 3142(f)(1)(C) so that the Court  
23 could determine whether any condition or combination of conditions would reasonably assure the  
24 appearance of the defendant as required and the safety of other persons and the community.

25 This matter came before the Court on May 15, 2015 for a detention hearing. The defendant was  
26 present, represented by attorney Christina Allbright, and assisted by Spanish language interpreter Carlos  
27 Beneman. Special Assistant United States Attorney Philip Kopczynski appeared for the government.

28 U.S. Pretrial Services conducted a full bail study and submitted a report recommending

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1 detention. The government moved for detention, and the defendant opposed. The parties submitted  
2 proffers and arguments at the hearing.

3 The Court has reviewed the Pretrial Services report, the complaint, and the government's March  
4 17, 2015 application for a warrant to search the defendant's residence. Section 3142(e)(3)(A) of Title 18  
5 of the United States Code creates a presumption in this case, subject to rebuttal by the defendant, that no  
6 condition or combination of conditions will reasonably assure his appearance as required and the safety  
7 of the community. Upon consideration of the facts, proffers, and arguments made at the detention  
8 hearing, and for the reasons stated on the record, the Court makes the following findings: (1) the  
9 defendant presents a risk of flight and the government has shown by a preponderance of the evidence  
10 that no condition or combination of conditions would ensure the defendant's presence as required; and  
11 (2) by clear and convincing evidence, no condition or combination of conditions can reasonably assure  
12 the safety of other persons and the community. Accordingly, the defendant must be detained pending  
13 trial in this matter.

14 In deciding to detain the defendant, the Court has looked at and considered the factors set forth in  
15 18 U.S.C § 3142(g): (1) the nature and circumstances of the offense; (2) the weight of the evidence  
16 against the defendant; (3) the history and characteristics of the defendant (including his physical and  
17 mental condition, family ties, employment, life and residence in the community, community ties, past  
18 conduct and criminal record, history of drug or alcohol abuse, record of appearance at court proceedings,  
19 and whether he was on conditional release of any sort at the time of the alleged offense); and (4) the  
20 nature and seriousness of the danger to any person or the community that would be posed by the  
21 defendant's release.

22 The present order supplements the Court's findings and order at the detention hearing and serves  
23 as written findings of fact and a statement of reasons as required by 18 U.S.C. § 3142(i)(1). As noted on  
24 the record, the defendant is alleged to have possessed methamphetamine and cocaine with the intent to  
25 distribute it. The quantity of methamphetamine he allegedly possessed exposes him to a prison term of  
26 up to 20 years, and it could support a charge under 21 U.S.C. § 841(b)(1)(A), which carries a ten-year  
27 mandatory prison term. The defendant allegedly possessed a portion of the methamphetamine in  
28 question inside a diaper bag near where his girlfriend's young child was seated in his car. In addition,

1 the defendant is a citizen of Mexico and appears to have no legal right to remain in the United States.  
2 He has prior criminal convictions, including a conviction for presenting false identification, and he  
3 committed the instant offense while on state probation.

4 Therefore, pursuant to 18 U.S.C. § 3142(i), IT IS ORDERED THAT:

- 5 1. The defendant is remanded to the custody of the United States Marshal;
- 6 2. The defendant be, and hereby is, committed to the custody of the Attorney General for  
7 confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving  
8 sentences or being held in custody pending appeal;
- 9 3. The defendant be afforded reasonable opportunity for private consultation with counsel;

10 and

- 11 4. On order of a court of the United States or on request of an attorney for the government,  
12 the person in charge of the corrections facility in which the defendant is confined shall deliver the  
13 defendant to an authorized United States Marshal for the purpose of any appearance in connection with a  
14 court proceeding.

15 **IT IS SO ORDERED.**

16 Dated: May 20, 2015



18 NANDOR J. VADAS  
United States Magistrate Judge  
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